the fraud theory may account for the liability of the original subscriber, the broader theory is perhaps the only one which satisfactorily explains the liability of the transferee.

THE RIGHTS OF MUNICIPALITIES AS AFFECTED BY THE STATUTE OF LIMITATIONS. — The maxim "*Nullum tempus occurrit regi*" has been adopted from England into the law of the United States. Neither the Federal government nor that of any sovereign state can be debarred by mere lapse of time from asserting its rights. *United States* v. *Hoar*, 2 Mason (U. S. Circ. Ct.) 311. Under a representative government a far-seeing public policy demands that public rights shall not be lost through the negligence or misfeasance of public servants. The question often arises, however, as to whether a municipality should be exempt from the operation of the statute. It seems that the proper answer must depend ultimately on how far a municipality is part of the state machinery — a political and administrative division — and how far a complete corporate entity with distinct rights and liabilities. The answer given to this query under varying circumstances will determine whether or not the statute may run against a city. To the proposition that public rights in and to highways, streets, and squares dedicated to public use cannot be lost by any length of adverse possession, there is general, but not universal, assent. See *Burbank* v. *Fay*, 65 N. Y. 57, 69, 70. Even where the state, and *a fortiori* the city, is by legislation subject to the statute of limitations, the courts have held that a city does not lose these rights by the lapse of the statutory period. *Hoadley* v. *San Francisco*, 50 Cal. 265. And where judicial legislation has not accomplished this result the law-makers have themselves provided for it. See N. H. PUB. ST. 1901, c. 77, § 7; MO. REV. ST. 1889, § 6772; VERM. ST. 1894, §§ 1220 and 1223. This trend of legislative and judicial opinion is well brought out by a recent Minnesota case. The court, acknowledging that the rule followed was "at variance with the overwhelming weight of authority and reason," felt reluctantly constrained by previous decisions to hold that the defendant by twenty years' adverse possession had acquired title to part of a public street. *City of Hastings* v. *Gillitt*, 88 N. W. Rep. 987. The legislature has accomplished what the court felt unable to do; first, by enacting that statutory limitations shall apply to the state, and then providing that no occupant of any public street or highway shall acquire title by reason of such occupancy. See 2 MINN. ST. § 5142; MINN. LAWS, 1899, c. 65. But the statutes not being retroactive did not govern the principal case.

On the other hand, it is general law that title to land held by a municipality for its private uses may be lost by the statutory period of adverse possession. *Evans* v. *Erie Co.*, 66 Pa. St. 222. But in several jurisdictions time always runs against a city, irrespective of circumstances. *Wheeling* v. *Campbell*, 12 W. Va. 36.

It seems that the distinction noted above is not only reasonable, but in accord with other analogies. Unquestionably municipal corporations have dual characters, public and private, in accordance with which both their power to act and their liability for damage inflicted vary. It has been argued that the same reasons for applying the maxim of "*Nullum tempus*" to the sovereign do not hold in the case of a city. The city is more compact, it is said; encroachments on public rights cannot so readily escape detection, and there are officers to prevent just such acts.

Wheeling v. *Campbell*, *supra*. But the other view seems more sound. The people are sovereign, and the city, after all, represents the people just as the state does; and it must be admitted that allowing adverse possession to give title would cause no less inconvenience in the case of a city street than in that of a state highway. One eminent author, in maintaining the position here set forth, has made one qualification. If a man has innocently occupied public land, and the city by its acts has led him to believe that the land is his, and its deprivation would entail great loss on him, then the city should be equitably estopped to set up its claim. DILL., MUN. CORP., 4 ed., § 675. See 15 HARV. L. REV. 737. With this exception, therefore, it seems that the purely public rights of a municipal corporation should not be barred; but that those of a *quasi* private nature should be treated like the rights of private persons or corporations.

EFFECT OF THE ABSORPTION OF A STATE UPON ITS EXISTING TREATIES. — Much learning and ingenuity have been displayed by publicists on the interesting question of the assumption of the debts of a state or territory, when it is absorbed or ceases to hold a place in the family of nations; but the equally interesting question as to what becomes of its treaty obligations has received only passing attention.

So long as the status of the contracting parties remains the same, it would seem that a treaty once lawfully contracted by free and capable parties should continue to exist unless some period for its termination is fixed by the treaty itself, or unless there has been a breach by one party which has been acted upon by the other. When, however, one of the contracting parties changes its political status, the question of the continuance of the treaty relation is affected not only by the nature of the change in the status, but also by the nature of the treaty obligation. It would seem to be clear that when a state or territory loses all individuality as a sovereignty, and becomes incorporated into the territory of another, then the treaty obligations of the state so incorporated will end, *ipso facto*. On the other hand, where a state joins others to itself for the purpose of forming a new single state, merely changing the name and size of the original, but substantially preserving its identity, then it would seem that the treaty obligations should continue in force. Furthermore, it would appear that when a state, retaining its separate government and local law, becomes a part of a confederate state or federated union, all treaties made by that state should remain binding unless the nature of the treaty obligation is such that it could not reasonably be carried out by the state itself or by the newly formed state.

A few months ago, the Imperial German Consul at Chicago sought the arrest and commitment, under Treaty of 1852 between the United States and the Kingdom of Prussia, of a fugitive from Prussia accused of uttering forged certificates. On application for the writ of *habeas corpus* the main contention of the prisoner was that the treaty was terminated by the formation of the German Empire in 1871. The Supreme Court of the United States affirmed the order of the District Court remanding the prisoner for extradition. *Terlinden* v. *Ames*, 22 Sup. Ct. Rep. 484. A short ground for supporting the case is this: the question whether an executory treaty such as an extradition treaty is in force, is a political question, and on such a question the judicial department is bound by the